

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35324

STATE OF IDAHO,)	2009 Unpublished Opinion No. 613
)	
Plaintiff-Respondent,)	Filed: September 18, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
ANDY GENE GALLEGOS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael R. Crabtree, District Judge.

Judgment of conviction and concurrent unified sentences of thirty years, with ten years determinate for sexual abuse of a minor under the age of sixteen with an enhancement and twenty-five years, with ten years determinate for a second count of sexual abuse of a minor under the age of sixteen, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before PERRY, Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Andy Gene Gallegos was found guilty of two counts of sexual abuse of a minor under the age of sixteen and he pled guilty to the persistent violator enhancement. Idaho Code §§ 18-1506 and 19-2514. The district court imposed a unified sentence of thirty years, with ten years determinate for the first count of sexual abuse of a minor under the age of sixteen with the enhancement, and a concurrent unified sentence of twenty-five years, with ten years determinate for the second count of sexual abuse of a minor under the age of sixteen. Gallegos appeals asserting that the district court abused its discretion by imposing excessive sentences and by failing to recognize that the court had discretion to consider polygraph results.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. The district court did not unduly limit the information considered at sentencing or abuse its discretion by imposing an excessive sentence.

Therefore, Gallegos' judgment of conviction and sentence are affirmed.